

191—48.12(508E) Penalties; injunctions; civil remedies; cease and desist.

48.12(1) Unfair trade practices. A violation of this rule shall be considered an unfair trade practice under Iowa Code chapter 507B and subject to the penalties contained in that chapter.

48.12(2) Unauthorized insurer. A person doing the activities of a viatical settlement provider or a viatical settlement broker without license under this chapter shall be deemed an unauthorized insurer and shall be subject to the penalties of Iowa Code chapter 507A.

48.12(3) License revocation and denial. The commissioner may refuse to issue, suspend, revoke or refuse to renew the license of a viatical settlement provider or viatical settlement broker if the commissioner finds that:

- a.* There was any material misrepresentation in the application for the license;
- b.* The viatical settlement provider or viatical settlement broker or any officer, partner, member or key management employee has been convicted of fraudulent or dishonest practices, is subject to a final administrative action or is otherwise shown to be untrustworthy or incompetent;
- c.* The viatical settlement provider made unreasonable payments to viators;
- d.* The viatical settlement provider or viatical settlement broker or any officer, partner, member or key management employee has been found guilty of, or has pleaded guilty or nolo contendere to, any felony or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;
- e.* The viatical settlement provider has entered into any viatical settlement contract that has not been approved pursuant to this rule;
- f.* The viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;
- g.* The viatical settlement provider or viatical settlement broker no longer meets the requirements of rule 48.3(508E) for initial licensure;
- h.* The viatical settlement provider has assigned, transferred or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this state, a viatical settlement purchaser, an institutional buyer as defined in rule 191—50.46(502) or a qualified institutional buyer as defined in Rule 144A of the Federal Securities Act of 1933, a financing entity, a special purpose entity, or a related provider trust; or
- i.* The viatical settlement broker or viatical settlement provider or any of its officers, partners, members or key management personnel has violated any provision of Iowa Code chapter 508E or of these rules.

48.12(4) If the commissioner denies a license application or suspends, revokes or refuses to renew the license of a viatical settlement provider or viatical settlement broker, the commissioner shall conduct a hearing in accordance with 191—Chapters 2 and 3.

48.12(5) A viatical settlement provider licensed in this state that fails to file the annual statement referred to in subparagraph 48.3(1)“a”(5) and paragraph 48.3(6)“b” in the time required shall pay and forfeit an administrative penalty in the sum of \$500 for deposit pursuant to Iowa Code section 505.7. The viatical settlement provider’s right to transact further new business in this state shall immediately cease until the provider has fully complied with this rule.

48.12(6) In addition to the penalties and other enforcement provisions of this rule, the commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the commissioner determines are necessary to restrain the person from committing the violation.

48.12(7) The commissioner may issue, in accordance with 191—Chapters 2 and 3, a cease and desist order upon a person that violates any provision of these rules, any regulation or order adopted by the commissioner or any written agreement entered into with the commissioner.

48.12(8) If the commissioner finds that an activity in violation of this rule presents an immediate danger to the public that requires an immediate final order, the commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and remains in effect for 90 days. If the commissioner begins nonemergency cease and desist proceedings, the

emergency cease and desist order remains effective, absent an order by a court of competent jurisdiction pursuant to 191—Chapters 2 and 3.